

VICTORINO C. FRANCISCO, PETITIONER, VS. WINAI PERMSKUL, AND THE HON. COURT OF APPEALS, RESPONDENTS.*G.R. No. 81006. May 12, 1989*

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-81006/>**CRUZ, J.:**

An important constitutional question has been injected in this case, which started out as an ordinary complaint for a sum of money. The question squarely presented to the Court is the validity of the memorandum decision authorized under Section 40 of B.P. Blg. 129 in the light of Article VIII, Section 14 of the Constitution.

On May 21, 1984, the petitioner leased his apartment in Makati to the private respondent for a period of one year for the stipulated rental of P3,000.00 a month. Pursuant to the lease contract, the private respondent deposited with the petitioner the amount of P9,000.00 to answer for unpaid rentals or any damage to the leased premises except when caused by reasonable wear and tear. On May 31, 1985, the private respondent vacated the property. He thereafter requested the refund of his deposit minus the sum of P1,000.00, representing the rental for the additional ten days of his occupancy after the expiration of the lease. The petitioner rejected this request. He said the lessee still owed him for other charges, including the electricity and water bills and the sum of P2,500.00 for repainting of the leased premises to restore them to their original condition.[1]

The private respondent sued in the Metropolitan Trial Court of Makati. After the submission of position papers by the parties, a summary judgment was rendered on October 11, 1985, sustaining the complainant and holding that the repainting was not chargeable to him. The defendant was ordered to pay the plaintiff the amount of P7,750.00, representing the balance of the deposit after deducting the water and electricity charges. The plaintiff was also awarded the sum of P1,250.00 as attorney's fees, plus the costs.[2]

This decision was appealed to the Regional Trial Court of Makati and was affirmed by Judge Jose C. de la Rama on January 14, 1987. This was done in a memorandum decision reading in full as follows:

MEMORANDUM DECISION

After a careful and thorough perusal, evaluation and study of the records of this case, this Court hereby adopts by reference the findings of fact and conclusions of law contained in the decision of the Metropolitan Trial Court of Makati, Metro Manila, Branch 63 and finds that there is no cogent reason to disturb the same.

WHEREFORE, judgment appealed from is hereby affirmed in toto.[3]

When the defendant went to the Court of Appeals, his petition for review was denied on September 29, 1987, as so too was his motion for reconsideration, on December 1, 1987.[4] He is now before us to fault the respondent court, principally for sustaining the memorandum decision of the regional trial court. His contention is that it violates Article VIII, Section 14 of the Constitution.

This provision reads as follows:

Sec. 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

Except for the second paragraph, which was introduced only in the present charter, Section 14 has been in force since the Constitution of 1935. The provision was recast in affirmative terms in the 1973 Constitution but has been virtually restored to its original form in the Constitution of 1987, to apply to all courts, including the municipal courts. The purpose has always been the same, viz., to inform the person reading the decision, and especially the parties, of how it was reached by the court after consideration of the pertinent facts and examination of the applicable laws.

The parties are entitled to no less than this explanation if only to assure them that the court rendering the decision actually studied the case before pronouncing its judgment. But there are more substantial reasons. For one thing, the losing party must be given an opportunity to analyze the decision so that, if permitted, he may elevate what he may consider its errors for review by a higher tribunal. For another, the decision, if well-presented and reasoned, may convince the losing party of its merits and persuade it to accept the verdict in good grace instead of prolonging the litigation with a useless appeal. A third reason is that decisions with a full exposition of the facts and the law on which they are based, especially those coming from the Supreme Court, will constitute a valuable body of case law that can serve as useful references and even as precedents in the resolution of future controversies. As the Court said in *Rosales v. Court of First Instance*:^[5]

Precedents are helpful in deciding cases when they are on all fours or at least substantially identical with previous litigations. *Argumentum a simili valet in lege*. Earlier decisions are guideposts that can lead us in the right direction as we tread the highways and byways of the law in the search for truth and justice. These pronouncements represent the wisdom of the past. They are the voice of vanished judges talking to the future. Except where there is a need to reverse them because of an emergent viewpoint or an altered situation, they urge us strongly that, indeed, the trodden path is best.

According to the petitioner, the memorandum decision rendered by the regional trial court should be revoked for non-compliance with the above-quoted constitutional mandate. He asks that the case be remanded to the regional trial court for a full-blown hearing on the merits, to be followed by a decision stating therein clearly and distinctly the facts and the law on which it is based. For his part, the private respondent demurs. He justifies the memorandum decision as authorized by B.P. Blg. 129 and invokes the ruling of this Court in *Romero v. Court of Appeals*,^[6] which sustained the said law.

Section 40 of B.P. Blg. 129 reads as follows:

Sec. 40. Form of decision in appealed cases. - Every decision or final resolution of a court in appealed cases shall clearly and distinctly state the findings of fact and the conclusions of law on which it is based which may be contained in the decision or final resolution itself, or adopted by reference from those set forth in the decision, order or resolution appealed from.

The above section was applied in the *Romero* case, together with a similar rule embodied in Section 18 of P.D. No. 946, providing that:

All cases of the Court of Agrarian Relations now pending before the Court of Appeals shall remain in the Division to which they have been assigned, and shall be decided within sixty (60) days from the effectivity of this Decree; Provided, however, That if the decision or order be an affirmance in toto of the dispositive conclusion of the judgment appealed from, then the Court of Appeals may, instead of rendering an extended

opinion, indicate clearly the trial court's findings of fact and pronouncements of law which have been adopted as basis for the affirmance.

In the said case, Justice Jose Y. Feria, speaking for a unanimous Court, declared:

As previously stated, the decision of the Court of Agrarian Relations consisted of thirteen pages, single space. The above-quoted decision of the respondent Court of Appeals consists of four pages, three of which contains verbatim the dispositive portion of the decision appealed from. The remaining page is devoted to an explanation of why "for judicial convenience and expediency, therefore, We hereby adopt, by way of reference, the findings of facts and conclusions of the court a quo spread in its decision, as integral part of this Our decision." The said decision may be considered as substantial compliance with the above-quoted provisions in Section 18 of P.D. No. 946 and Section 40 of B.P. Blg. 129.

Nevertheless, he was quick to add a tenable misgiving and to express the following reservation:

The authority given the appellate court to adopt by reference the findings of fact and conclusions of law from those set forth in the appealed decisions should be exercised with caution and prudence, because the tendency would be to follow the line of least resistance by just adopting the findings and conclusions of the lower court without thoroughly studying the appealed case.

This caveat was necessary because, as he correctly observed:

It cannot be too strongly emphasized that just as important as the intrinsic validity of a decision is the perception by the parties-litigants that they have been accorded a fair opportunity to be heard by a fair and responsible magistrate before judgment is rendered. It is this perception, coupled with a clear conscience, which enables the members of the judiciary to discharge the awesome responsibility of sitting in judgment on their fellowmen.

There is no question that the purpose of the law in authorizing the memorandum decision is to expedite the termination of litigations for the benefit of the parties as well as the courts themselves.

Concerned with the mounting problem of delay in the administration of justice, the Constitution now contains a number of provisions aimed at correcting this serious difficulty that has caused much disaffection among the people. Thus, Section 16 of the Bill of Rights reiterates the original provision in the 1973 Constitution guaranteeing to all persons "the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies." Section 14(2) of the same Article III retains the rule that the accused shall be entitled to a trial that shall not only be public and impartial but also speedy. In Article VIII, Section 5(3), the Supreme Court is expressly permitted to temporarily assign a judge from one station to another when the public interest so requires, as when there is a necessity for a less occupied judge to help a busier colleague dispose of his cases. In paragraph 5 of the same section, it is stressed that the rules of court to be promulgated by the Supreme Court "shall provide a simplified and inexpensive procedure for the speedy disposition of cases." In Section 15 of the same article, maximum periods are prescribed for the decision or resolution of cases, to wit, twenty-four months in the case of Supreme Court and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts and three months for all other lower courts.

The courts of justice are really hard put at coping with the tremendous number of cases in their dockets which, to make matters worse, continues to grow by the day despite the efforts being taken to reduce it. In the Supreme Court alone, an average of 400 cases is received every month as against the average of 300 cases disposed of during the same month, leaving a difference of 100 cases monthly that is added to some 5,000 still unresolved cases that have accumulated during the last two decades or so. At this rate, the backlog will increase by 1,200 cases every year on top of the earlier balance, much of which, despite its age, is still viable and have still to be

resolved. Considering that the Court spends four days of the week for studying and deliberating on these cases in its en banc and division sessions, one can appreciate the limited time allowed its members for the actual writing of its decisions. (This particular decision, while extended, happens fortunately to be less complicated than many of the other cases submitted to it, which require more time to write, not to mention the antecedent research that may have to be made.)

Viewed in the light of these practical considerations, the memorandum decision can be welcomed indeed as an acceptable method of dealing expeditiously with the case load of the courts of justice. But expediency alone, no matter how compelling, cannot excuse non-compliance with the Constitution; or to put it more familiarly, the end does not justify the means. It is plain that if Section 40 of B.P. Blg. 129 is unconstitutional, it must be struck down.

In the case at bar, we find that a judgment was made by the metropolitan trial court in compliance with the rule on summary procedure. The decision consisted of three typewritten pages, single space, and stated clearly and distinctly the facts and the law on which it was based. It was a concise and well-written decision, and a correct one to boot, for which Judge Paciano B. Balita is to be commended.

The problem, though, as the petitioner sees it, is that in affirming this judgment, the regional trial court of Makati rendered a mere memorandum decision that simply adopted by reference the findings of fact and law made by Judge Balita and then concluded, without saying more, that "there (was) no cogent reason to disturb the same." It is claimed that as Judge de la Rama did not make his own statement of the facts and the law as required by the Constitution, his memorandum decision was a total nullity. Worse, when the appeal was taken to the respondent court, what it reviewed was not the memorandum decision of the regional trial court but the decision rendered by the metropolitan trial court which, legally speaking, was not before the appellate court.

It is not really correct to say that the Court of Appeals did not review the memorandum decision of the regional trial court which was the subject of the petition for review. A reading of its own decision will show that it dealt extensively with the memorandum decision and discussed it at some length in the light of the observations - and reservations - of this Court in the Romero case. Moreover, in reviewing the decision of the metropolitan trial court, the Court of Appeals was actually reviewing the decision of the regional trial court, which had incorporated by reference the earlier decision rendered by Judge Balita.

The question, of course, is whether such incorporation by reference was a valid act that effectively elevated the decision of the metropolitan trial court for examination by the Court of Appeals.

To be fair, let it be said that when Judge de la Rama availed himself of the convenience offered by Section 40 of B.P. Blg. 129, he was only acting in accordance with the ruling announced in Romero permitting the use of the memorandum decision. It must also be observed that even if the respondent court appeared to be partial to the reservation rather than the rule in the said case, it nevertheless had the duty - which it discharged - to abide by the doctrine announced therein by the highest tribunal of the land. The respondent court could not have acted otherwise.

This Court is not hampered by such inhibitions. As we may re-examine our own rulings and modify or reverse them whenever warranted, we take a second look at the memorandum decision and the Romero case and test them on the touchstone of the Constitution.

The law does not define the memorandum decision and simply suggests that the court may adopt by reference the findings of fact and the conclusions of law stated in the decision, order or resolution on appeal before it. No particular form is prescribed; the conditions for its use are not indicated. In fact, B.P. Blg. 129 does not even

employ the term "memorandum decision" in Section 40 or elsewhere in the rest of the statute. This phrase appears to have been introduced in this jurisdiction not by that law but by Section 24 of the Interim Rules and Guidelines, reading as follows:

Sec. 24. Memorandum decisions. – The judgment or final resolution of a court in appealed cases may adopt by reference the findings of fact and conclusions of law contained in the decision or final order appealed from.

It is clear that where the decision of the appellate court actually reproduces the findings of fact or the conclusions of law of the court below, it is not a memorandum decision as envisioned in the above provision. The distinctive features of the memorandum decision are, first, it is rendered by an appellate court, and second, it incorporates by reference the findings of fact or the conclusions of law contained in the decision, order or ruling under review. Most likely, the purpose is to affirm the decision, although it is not impossible that the approval of the findings of fact by the lower court may lead to a different conclusion of law by the higher court. At any rate, the reason for allowing the incorporation by reference is evidently to avoid the cumbersome reproduction of the decision of the lower court, or portions thereof, in the decision of the higher court. The idea is to avoid having to repeat in the body of the latter decision the findings or conclusions of the lower court since they are being approved or adopted anyway.

Parenthetically, the memorandum decision is also allowed in the United States, but its form (at least) differs from the one under consideration in this case. Such a decision is rendered in that country upon a previous determination by the judge that there is no need for a published opinion and that it will have no precedential effect. The judgment is usually limited to the dispositive portion but a memorandum is attached containing a brief statement of the facts and the law involved, mainly for the information of the parties to the case.

When a law is questioned before the Court, we employ the presumption in favor of its constitutionality. As we said in *Peralta v. Commission of Elections*, "to justify the nullification of a law, there must be a 'clear and unequivocal breach of the Constitution, not a doubtful and argumentative implication.'" [7] Courts will bend over backward to sustain that presumption. In case of doubt, it is the duty of the judiciary to exert every effort to prevent the invalidation of the law and the nullification of the will of the legislature that enacted it and the executive that approved it. This norm is based on a becoming respect that the judiciary is expected to accord the political departments of the government which, it must be assumed in fairness, thoroughly studied the measure under challenge and assured themselves of its constitutionality before agreeing to enact it.

The Court has deliberated extensively on the challenge posed against the memorandum decision as now authorized by law. Taking into account the salutary purpose for which it is allowed, and bearing in mind the above-discussed restraint we must observe when a law is challenged before us, we have come to the conclusion that Section 40 of B.P. Blg. 129, as we shall interpret it here, is not unconstitutional.

What is questioned about the law is the permission it gives for the appellate court to merely adopt by reference in its own decision the judgment of the lower court on appeal. It is easy to understand that this device may feed the suspicion feared by Justice Feria that the court has not given the appeal the attention it deserved and thus deprived the parties of due process. True or not, this impression is likely to undermine popular faith in the judiciary as an impartial forum which hears before it decides and bases its decision on the established facts and the applicable law.

No less objectionable is the inconvenience involved in having to search for the decision referred to, which, having been incorporated by reference only, does not have to be attached to the memorandum decision. The Court had occasion earlier to complain about this difficulty in the case of *Gindoy v. Tapucar*, [8] where we said:

x x x True it is that the Court of First Instance may adopt in toto either expressly or impliedly the findings and

conclusions of the inferior court, and as a rule, such adoption would amount to a substantial compliance with the constitutional mandate discussed herein, but where, as in this case, the specific arguments presented against the decision of the inferior court are of such nature that a blanket affirmance of said decision does not in fact adequately dispose of the strictures against it, it is but proper, if only to facilitate the action to be taken by the appellate court on the petition for review, that the concrete bases of the impugned decision should appear on its face, instead of the appellate court having to dig into the records to find out how the inferior court resolved the issues of the case.

As to this problem, the Solicitor General correctly points out that it does not exist in the case at bar because the decision of the Court of Appeals extensively quoted from the decision of the metropolitan trial court. Although only incorporated by reference in the memorandum decision of the regional trial court, Judge Balita's decision was nevertheless available to the Court of Appeals. It is this circumstance, or even happenstance, if you will, that has validated the memorandum decision challenged in this case and spared it from constitutional infirmity.

That same circumstance is what will move us now to lay down the following requirement, as a condition for the proper application of Section 40 of B.P. Blg. 129. The memorandum decision, to be valid, cannot incorporate the findings of fact and the conclusions of law of the lower court only by remote reference, which is to say that the challenged decision is not easily and immediately available to the person reading the memorandum decision. For the incorporation by reference to be allowed, it must provide for direct access to the facts and the law being adopted, which must be contained in a statement attached to the said decision. In other words, the memorandum decision authorized under Section 40 of B.P. Blg. 129 should actually embody the findings of fact and conclusions of law of the lower court in an annex attached to and made an indispensable part of the decision.

It is expected that this requirement will allay the suspicion that no study was made of the decision of the lower court and that its decision was merely affirmed without a proper examination of the facts and the law on which it was based. The proximity at least of the annexed statement should suggest that such an examination has been undertaken. It is, of course, also understood that the decision being adopted should, to begin with, comply with Article VIII, Section 14 as no amount of incorporation or adoption will rectify its violation.

The Court finds it necessary to emphasize that the memorandum decision should be sparingly used lest it become an addictive excuse for judicial sloth. It is an additional condition for its validity that this kind of decision may be resorted to only in cases where the facts are in the main accepted by both parties or easily determinable by the judge and there are no doctrinal complications involved that will require an extended discussion of the laws involved. The memorandum decision may be employed in simple litigations only, such as ordinary collection cases, where the appeal is obviously groundless and deserves no more than the time needed to dismiss it.

Despite the convenience afforded by the memorandum decision, it is still desirable that the appellate judge exert some effort in restating in his own words the findings of fact of the lower court and presenting his own interpretation of the law instead of merely parroting the language of the court a quo as if he cannot do any better. There must be less intellectual indolence and more pride of authorship in the writing of a decision, especially if it comes from an appellate court.

It ill becomes an appellate judge to write his rulings with a pair of scissors and a pot of paste as if he were a mere researcher. He is an innovator, not an echo. The case usually becomes progressively simpler as it passes through the various levels of appeal and many issues become unimportant or moot and drop along the way. The appellate judge should prune the cluttered record to make the issues clearer. He cannot usually do this by simply mimicking the lower court. He must use his own perceptiveness in unraveling the rollo and his own discernment in discovering the law. No less importantly, he must use his own language in laying down his judgment. And in doing so, he should also guard against torpidity lest his pronouncements excite no more fascination than a

technical tract on the values of horse manure as a fertilizer. A little style will help liven the opinion trapped in the tortuous lexicon of the law with all its whereases and wherefores. A judicial decision does not have to be a bore.

The interpretation we make today will not apply retroactively to the memorandum decision rendered by the regional trial court in the case at bar, or to the decision of the respondent court affirming such decision on the strength of *Romero v. Court of Appeals*. As earlier observed, there was substantial compliance with Section 40 because of the direct availability and actual review of the decision of Judge Balita incorporated by reference in the memorandum decision of Judge de la Rama. The memorandum decision as then understood under the *Romero* decision was a valid act at the time it was rendered by Judge de la Rama and produced binding legal effect. We also affirm the finding of the respondent court that the summary judgment without a formal trial was in accord with the Rule on Summary Procedure and that the award of attorney's fees is not improper.

Henceforth, all memorandum decisions shall comply with the requirements herein set forth both as to the form prescribed and the occasions when they may be rendered. Any deviation will summon the strict enforcement of Article VIII, Section 14 of the Constitution and strike down the flawed judgment as a lawless disobedience.

WHEREFORE, the petition is DENIED, with costs against the petitioner. This decision is immediately executory. It is so ordered.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.
Feliciano, J., no part.

[1] Rollo, pp. 33-34.

[2] *Ibid.*, pp. 37-39.

[3] *Id.*, p. 46.

[4] *Id.*, pp. 58-66, 67. By Herrera, O., J., ponente, and Luciano and Torres, JJ., concurring.

[5] G.R. No. 62577, September 21, 1987.

[6] 147 SCRA 183.

[7] 82 SCRA 30.

[8] 75 SCRA 31.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.